

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DWAYNE L. RIECO, ) Civil Action No. 2: 14-cv-0588  
 )  
 Plaintiff, ) United States District Judge  
 ) Arthur J. Schwab  
 v. )  
 )  
 C/O MORAN, et al., ) United States Magistrate Judge  
 ) Cynthia Reed Eddy  
 Defendants. )

## **REPORT AND RECOMMENDATION**

## I. Recommendation

For the reasons that follow, it is respectfully recommended that the Motion for Preliminary Injunction / Temporary Restraining Order by Plaintiff, Dwayne L. Rieco (ECF No. 43) be denied.

## II. Report

On October 29, 2014, Defendants filed a partial Motion to Dismiss, with accompanying brief. Plaintiff was ordered to respond no later than January 5, 2015. On November 26, 2014, Plaintiff filed a motion for an extension of time in which to respond to the motion. Said request was granted and Plaintiff was granted an extension to January 30, 2015 to respond to the partial motion to dismiss.

On December 5, 2014, Plaintiff filed the instant Motion for Preliminary Injunction / Temporary Restraining Order. (ECF No. 43). Distilled to its essence, the motion simply recounts certain events that occurred in order to explain why Plaintiff would not be able to timely respond to Defendants' motion to dismiss. However, on January 30, 2015, Plaintiff did in fact timely file his Brief in opposition to the Motion to Dismiss. (ECF No. 58). Therefore, any claim of injury, much less "immediate and irreparable injury," is moot.

### III. Conclusion

For the reasons stated above, it is respectfully recommended that the Motion for Preliminary Injunction / Temporary Restraining Order filed by Plaintiff (ECF No. 43) be denied.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72(D)(2) of the Local Rules for Magistrates Judges, the parties are allowed fourteen (14) days after service of this Report and Recommendation, to file Objections to this Report And Recommendation. Any party opposing the objections shall have fourteen (14) days after date of service to respond to the objections. Failure to file Objections will waive the right to appeal. Brightwell v. Lehman, 637 F.3d 187, 193 n.7 (3d Cir. 2011).

Dated: March 30, 2015

s/ Cynthia Reed Eddy  
Cynthia Reed Eddy  
United States Magistrate Judge

cc: DWAYNE L. RIECO  
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